

Food and Drug Administration, HHS

§ 1.101

§ 1.99 Costs chargeable in connection with relabeling and reconditioning inadmissible imports.

The cost of supervising the relabeling or other action in connection with an import of food, drugs, devices, or cosmetics which fails to comply with the Federal Food, Drug, and Cosmetic Act shall be paid by the owner or consignee who files an application requesting such action and executes a bond, pursuant to section 801(b) of the act, as amended. The cost of such supervision shall include, but not be restricted to, the following:

(a) Travel expenses of the supervising officer.

(b) Per diem in lieu of subsistence of the supervising officer when away from his home station, as provided by law.

(c) The charge for the services of the supervising officer, which shall include administrative support, shall be computed at a rate per hour equal to 266 percent of the hourly rate of regular pay of a grade GS-11/4 employee, except that such services performed by a customs officer and subject to the provisions of the act of February 13, 1911, as amended (sec. 5, 36 Stat. 901, as amended (19 U.S.C. 267)), shall be calculated as provided in that act.

(d) The charge for the service of the analyst, which shall include administrative and laboratory support, shall be computed at a rate per hour equal to 266 percent of the hourly rate of regular pay of a grade GS-12/4 employee. The rate per hour equal to 266 percent of the equivalent hourly rate of regular pay of the supervising officer (GS-11/4) and the analyst (GS-12/4) is computed as follows:

	Hours
Gross number of working hours in 52 40-hr weeks	2,080
Less:	
9 legal public holidays—New Years Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day	72
Annual leave—26 d	208
Sick leave—13 d	104
Total	384
Net number of working hours	1,696
Gross number of working hours in 52 40-hr weeks	2,080
Working hour equivalent of Government contributions for employee retirement, life insurance, and health benefits computed at 8½ pct. of annual rate of pay of employee	176

	Hours
Equivalent annual working hours	2,256
Support required to equal to 1 man-year	2,256
Equivalent gross annual working hours charged to Food and Drug appropriation	4,512

NOTE: Ratio of equivalent gross annual number of working hours charged to Food and Drug appropriation to net number of annual working hours 4,512/1,696=266 pct.

(e) The minimum charge for services of supervising officers and of analysts shall be not less than the charge for 1 hour, and time after the first hour shall be computed in multiples of 1 hour, disregarding fractional parts less than ½ hour.

§ 1.101 Notification and recordkeeping.

(a) *Scope.* This section pertains to notifications and records required for human drug, biological product, device, animal drug, food, cosmetic, and tobacco product exports under sections 801 or 802 of the Federal Food, Drug, and Cosmetic Act or (21 U.S.C. 381 and 382) or section 351 of the Public Health Service Act (42 U.S.C. 262).

(b) *Recordkeeping requirements for human drugs, biological products, devices, animal drugs, foods, cosmetics, and tobacco products exported under or subject to section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act.* Persons exporting an article under section 801(e)(1) of the act or an article otherwise subject to section 801(e)(1) of the act shall maintain records as enumerated in paragraphs (b)(1) through (b)(4) of this section demonstrating that the product meets the requirements of section 801(e)(1) of the act. Such records shall be maintained for the same period of time as required for records subject to good manufacturing practice or quality systems regulations applicable to the product, except that records pertaining to the export of foods and cosmetics under section 801(e)(1) of the act shall be kept for 3 years after the date of exportation. The records shall be made available to the Food and Drug Administration (FDA), upon request, during an inspection for review and copying by FDA.

(1) Records demonstrating that the product meets the foreign purchaser's

specifications: The records must contain sufficient information to match the foreign purchaser's specifications to a particular export;

(2) Records demonstrating that the product does not conflict with the laws of the importing country: This may consist of either a letter from an appropriate foreign government agency, department, or other authorized body stating that the product has marketing approval from the foreign government or does not conflict with that country's laws, or a notarized certification by a responsible company official in the United States that the product does not conflict with the laws of the importing country and that includes a statement acknowledging that he or she is subject to the provisions of 18 U.S.C. 1001;

(3) Records demonstrating that the product is labeled on the outside of the shipping package that it is intended for export: This may consist of copies of any labels or labeling statements, such as "For export only," that are placed on the shipping packages or, if the exported product does not have a shipping package or container, on shipping invoices or other documents accompanying the exported product; and

(4) Records demonstrating that the product is not sold or offered for sale in the United States: This may consist of production and shipping records for the exported product and promotional materials.

(c) *Additional recordkeeping requirements for partially processed biological products exported under section 351(h) of the Public Health Service Act.* In addition to the requirements in paragraph (b) of this section, persons exporting a partially processed biological product under section 351(h) of the Public Health Service Act shall maintain, for the same period of time as required for records subject to good manufacturing practice or quality systems regulations applicable to the product, and make available to FDA, upon request, during an inspection for review and copying by FDA, the following records:

(1) Records demonstrating that the product for export is a partially processed biological product and not in a form applicable to the prevention,

treatment, or cure of diseases or injuries of man;

(2) Records demonstrating that the partially processed biological product was manufactured in conformity with current good manufacturing practice requirements;

(3) Records demonstrating the distribution of the exported partially processed biological products; and

(4) Copies of all labeling that accompanies the exported partially processed biological product and other records demonstrating that the exported partially processed biological product is intended for further manufacture into a final dosage form outside the United States; this may include a container label with the statement, "Caution: For Further Manufacturing Use Only" and any package insert.

(d) *Notification requirements for drugs, biological products, and devices exported under section 802 of the act.* (1) Persons exporting a human drug, biological product, or device under section 802 of the act, other than a drug, biological product, or device for investigational use exported under section 802(c) of the act, or a drug, biological product, or device exported in anticipation of marketing authorization under section 802(d) of the act, shall provide written notification to FDA. The notification shall identify:

(i) The product's trade name;

(ii) If the product is a drug or biological product, the product's abbreviated or proper name or, if the product is a device, the type of device;

(iii) If the product is a drug or biological product, a description of the product's strength and dosage form or, if the product is a device, the product's model number; and

(iv) If the export is to a country not listed in section 802(b)(1) of the act, the country that is to receive the exported article. The notification may, but is not required to, identify countries listed in section 802(b)(1) of the act or state that the export is intended for a listed country without identifying the listed country.

(2) The notification shall be sent to the following addresses:

(i) For biological products and devices regulated by the Center for Biologics Evaluation and Research—Division of Case Management (HFM-610), Office of Compliance and Biologics Quality, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852-1448.

(ii) For human drug products, biological products, and devices regulated by the Center for Drug Evaluation and Research—Division of New Drugs and Labeling Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993-0002.

(iii) For devices—Food and Drug Administration, Center for Devices and Radiological Health, Division of Program Operations, 10903 New Hampshire Ave., Bldg. 66, rm. 5429, Silver Spring, MD 20993-0002.

(e) *Recordkeeping requirements for products subject to section 802(g) of the act.* (1) Any person exporting a product under any provision of section 802 of the act shall maintain records of all drugs, biological products, and devices exported and the countries to which the products were exported. In addition to the requirements in paragraph (b) of this section, such records include, but are not limited to, the following:

- (i) The product's trade name;
- (ii) If the product is a drug or biological product, the product's abbreviated or proper name or, if the product is a device, the type of device;
- (iii) If the product is a drug or biological product, a description of its strength and dosage form and the product's lot or control number or, if the product is a device, the product's model number;
- (iv) The consignee's name and address; and
- (v) The date on which the product was exported and the quantity of product exported.

(2) These records shall be kept at the site from which the products were exported or manufactured, and be maintained for the same period of time as required for records subject to good manufacturing practice or quality systems regulations applicable to the product. The records shall be made

available to FDA, upon request, during an inspection for review and copying by FDA.

[66 FR 65447, Dec. 19, 2001, as amended at 69 FR 48774, Aug. 11, 2004; 70 FR 14980, Mar. 24, 2005; 74 FR 13112, Mar. 26, 2009; 75 FR 20914, Apr. 22, 2010; 77 FR 5176, Feb. 2, 2012]

Subparts F–G [Reserved]

Subpart H—Registration of Food Facilities

SOURCE: 68 FR 58960, Oct. 10, 2003, unless otherwise noted.

GENERAL PROVISIONS

§ 1.225 Who must register under this subpart?

(a) You must register your facility under this subpart if you are the owner, operator, or agent in charge of either a domestic or foreign facility, as defined in this subpart, and your facility is engaged in the manufacturing/processing, packing, or holding of food for consumption in the United States, unless your facility qualifies for one of the exemptions in § 1.226.

(b) If you are an owner, operator, or agent in charge of a domestic facility, you must register your facility whether or not the food from the facility enters interstate commerce.

(c) If you are the owner, operator, or agent in charge of a facility, you may authorize an individual to register your facility on your behalf.

§ 1.226 Who does not have to register under this subpart?

This subpart does not apply to the following facilities:

(a) A foreign facility, if food from such facility undergoes further manufacturing/processing (including packaging) by another facility outside the United States. A facility is not exempt under this provision if the further manufacturing/processing (including packaging) conducted by the subsequent facility consists of adding labeling or any similar activity of a *de minimis* nature;

- (b) Farms;
- (c) Retail food establishments;
- (d) Restaurants;